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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Kizzy Williams, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

Neuvoo USA Inc., a Delaware
corporation,

Defendant.

CLASS ACTION COMPLAINT
JURY TRIAL DEMAND

Plaintiff Kizzy Williams (“Plaintiff” or “Williams”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Neuvoo USA Inc. (“Neuvoo” or “Defendant”) to stop Neuvoo from violating the Telephone Consumer Protection Act by

1 sending unsolicited autodialed text messages to consumers, and to otherwise obtain
2 injunctive and monetary relief for all persons injured by Neuvo's conduct. Plaintiff, for
3 this Complaint, allege as follows upon personal knowledge as to herself and her own acts
4 and experiences, and, as to all other matters, upon information and belief, including
5 investigation conducted by her attorneys.

6 **PARTIES**

7 1. Plaintiff Williams is a Mesa, Arizona resident.

8 2. Defendant Neuvo is a Delaware corporation headquartered in Tennessee.
9 Defendant conducts business throughout Arizona and the United States.

10 **JURISDICTION AND VENUE**

11 3. This Court has federal question subject matter jurisdiction over this action
12 under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection
13 Act, 47 U.S.C. § 227 ("TCPA").

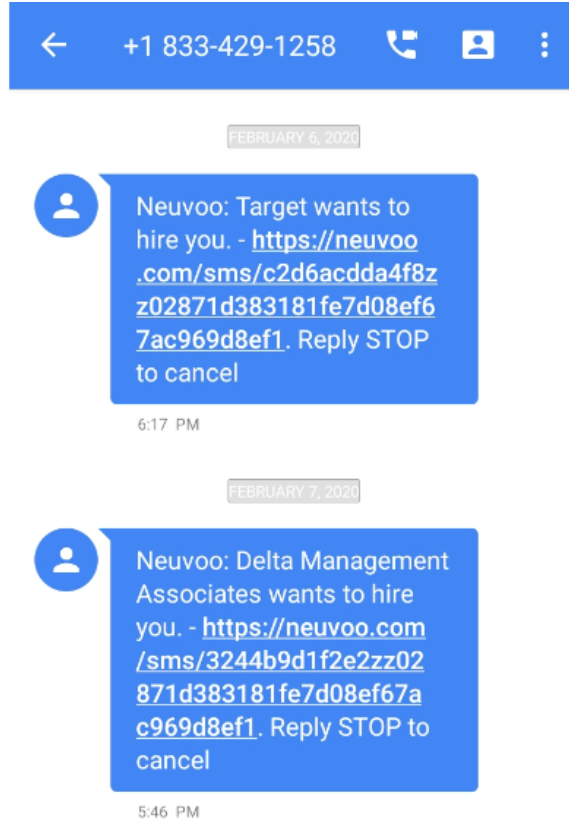
14 4. This Court has personal jurisdiction over Defendant and venue is proper in
15 this District under 28 U.S.C. § 1391(b) because Defendant directed its TCPA violative text
16 messages to Plaintiff in this District.

17 **PLAINTIFF'S ALLEGATIONS**

18 5. Neuvo is a job search website.

19 6. Neuvo markets the availability of jobs on its website using unsolicited,
20 autodialed text messages.

21 7. For example, on February 6, 2020 at 6:17 pm and February 7, 2020 at 5:46
22 pm, Plaintiff received unsolicited, text messages to her cell phone number from Neuvo
23 using phone number 833-429-1258:



8. Plaintiff has never searched for jobs on Neuvo's website and has never provided her consent to Neuvo to send her text messages using an automatic telephone dialing system or to otherwise contact her.

9. Neuvo's unsolicited texts were a nuisance that aggravated Plaintiff, wasted her time, invaded her privacy, diminished the value of the cellular services she paid for, caused her to temporarily lose the use and enjoyment of her phone, and caused wear and tear to her phone's data, memory, software, hardware, and battery components.

10. In sending the unsolicited text messages at issue, Neuvo, or a third party acting on its behalf, utilized an automatic telephone dialing system; hardware and/or software with the capacity to store or produce cellular telephone number to be called, using a random or sequential number generator, or to dial telephone numbers from preloaded lists. This is evident from the circumstances surrounding the text messages, including the

1 text messages' commercial and generic content, that the text messages were unsolicited,
2 and that there were multiple text messages.

3 11. On information and belief, Neuvo, or a third-party acting on its behalf, sent
4 substantively identical unsolicited text messages *en masse* to the cellular telephone
5 numbers of thousands of consumers. This is evident from the text messages' commercial
6 and generic content, that the text messages were unsolicited, and that they were using an
7 automatic telephone dialing system.

8 12. To the extent the text messages were sent on Neuvo's behalf to consumers,
9 Neuvo provided the third-party access to its records, authorized use of its trade name,
10 otherwise controlled the content of the messages, and knew of, but failed to stop, the
11 sending of the text messages in violation of the TCPA.

12 13. Accordingly, Plaintiff brings this action pursuant to Federal Rules of Civil
13 Procedure 23(b)(2) and 23(b)(3) on behalf of herself and all others similarly situated and
14 seeks certification of the following Class:

15 **ATDS Class:** All persons who, on or after four years prior to the filing of the
16 initial complaint in this action through the date of class certification, (1) were
17 sent a text message to their cellular telephone number by or on behalf of
18 Neuvo, (2) using a dialing system substantially similar dialing system as
19 used to text message Plaintiff, (3) for a substantially similar reason as
Neuvo texted Plaintiff.

20 14. The following individuals are excluded from the Class: (1) any Judge or
21 Magistrate presiding over this action and members of their families; (2) Defendant, its
22 subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its
23 parents have a controlling interest and their current or former employees, officers and
24 directors; (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely
25 request for exclusion from the Classes; (5) the legal representatives, successors or assigns
26 of any such excluded persons; and (6) persons whose claims against Defendant have been
27 fully and finally adjudicated and/or released. Plaintiff anticipates the need to amend the
28

1 class definitions following appropriate discovery.

2 15. **Numerosity:** The exact size of the Class is unknown and unavailable to
3 Plaintiff at this time, but it is clear that individual joinder is impracticable. On information
4 and belief, Defendant sent unsolicited text messages to thousands of individuals who fall
5 into the Class definition. Class membership can be easily determined from Defendant's
6 records.

7 16. **Typicality:** Plaintiff's claims are typical of the claims of the other members
8 of the Class. Plaintiff is a member of the Class, and if Defendant violated the TCPA with
9 respect to Plaintiff, then it violated the TCPA with respect to the other members of the
10 Class. Plaintiff and the Class sustained the same damages as a result of Defendant's
11 uniform wrongful conduct.

12 17. **Commonality and Predominance:** There are many questions of law and
13 fact common to the claims of Plaintiff and the Class, and those questions predominate over
14 any questions that may affect individual members of the Class. Common questions for the
15 Class include, but are not necessarily limited to the following:

- 16 a) How Defendant gathered, compiled, or obtained the telephone
17 numbers of Plaintiff and the Class;
- 18 b) Whether the text messages were sent using an automatic telephone
19 dialing system;
- 20 c) Whether Defendant sent some or all of the text messages without the
21 consent of Plaintiff and the Class; and
- 22 d) Whether Defendant's conduct was willful and knowing such that
23 Plaintiff and the Class are entitled to treble damages.

24 18. **Adequate Representation:** Plaintiff will fairly and adequately represent and
25 protect the interests of the Class and has retained counsel competent and experienced in
26 complex class actions. Plaintiff has no interest antagonistic to those of the Class, and
27 Defendant has no defenses unique to Plaintiff.

1 **19. Policies Generally Applicable to the Class:** This class action is appropriate
2 for certification because Defendant has acted or refused to act on grounds generally
3 applicable to the Class as a whole, thereby requiring the Court's imposition of uniform
4 relief to ensure compatible standards of conduct toward the members of the Class, and
5 making final injunctive relief appropriate with respect to the Class as a whole. Defendant's
6 practices challenged herein apply to and affect the members of the Class uniformly, and
7 Plaintiff's challenge of those practices hinges on Defendant's conduct with respect to the
8 Class as a whole, not on facts or law applicable only to Plaintiff.

9 **20. Superiority:** This case is also appropriate for class certification because class
10 proceedings are superior to all other available methods for the fair and efficient
11 adjudication of this controversy given that joinder of all parties is impracticable. The
12 damages suffered by the individual members of the Class will likely be relatively small,
13 especially given the burden and expense of individual prosecution of the complex litigation
14 necessitated by Defendant's actions. Thus, it would be virtually impossible for the
15 individual members of the Class to obtain effective relief from Defendant's misconduct.
16 Even if members of the Class could sustain such individual litigation, it would still not be
17 preferable to a class action, because individual litigation would increase the delay and
18 expense to all parties due to the complex legal and factual controversies presented in this
19 case. By contrast, a class action presents far fewer management difficulties and provides
20 the benefits of single adjudication, economy of scale, and comprehensive supervision by
21 a single court.

22 **FIRST CAUSE OF ACTION**
23 **Violation of 47 U.S.C. § 227**
24 **(On Behalf of Plaintiff and the ATDS Class)**

25 **21.** Plaintiff repeats and realleges the allegations of paragraphs 1 through 20 of
26 this complaint and incorporates them by reference.
27
28

22. Defendant and/or its agents transmitted text messages to cellular telephone numbers belonging to Plaintiff and the other members of the ATDS Class using an automatic telephone dialing system.

23. These solicitation text messages were sent without the consent of Plaintiff and the other members of the ATDS Class.

24. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii), and as a result, under 47 U.S.C. §§ 227(b)(3)(B)-(C), Plaintiff and members of the ATDS Class are entitled to a minimum of \$500 and a maximum \$1,500 in damages for each violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Williams, individually and on behalf of the Class, prays for the following relief:

- a) An order certifying this case as a class action on behalf of the Class as defined above, and appointing Plaintiff as the representative of the Class and her counsel as Class Counsel;
- b) An award of actual and/or statutory damages and costs;
- c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- d) An injunction requiring Defendant to cease all unsolicited text messaging activity, and to otherwise protect the interests of the Class; and
- e) Such further and other relief as the Court deems necessary.

JURY TRIAL DEMAND

Plaintiff requests a jury trial.

Respectfully Submitted,

KIZZY WILLIAMS, individually and on
behalf of those similarly situated individuals

Dated: February 20, 2020

/s/ Nathan Brown

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**Pro hac vice motion forthcoming*